of the case or because of a voluntary *retraxit* on the part of the plaintiff. See *Merritt* v. *Campbell* (1874) 47 Cal. 542. A dismissal by agreement can be pleaded in bar if the parties stated in the agreement that it should be a bar. *Heironymous* v. *Heironymous* (1884) 64 Iowa 81, 19 N. W. 855. But where the agreement itself is not offered in evidence, the majority rule is that the mere words in a judgment "dismissed by agreement" conclusively show that the parties intended the dismissal to operate as a final settlement of the case, and as a result, to act as a bar to a subsequent suit. *Hoover* v. *Mitchell* (1874) 66 Va.* 387; *Bank of the Commonwealth* v. *Hopkins* (1834) 32 Ky. *395; *contra, Haldeman* v. *United States* (1875) 91 U. S. 584; *State, etc. Board* v. *Stewart* (1907) 46 Wash. 79, 89 Pac. 475. This inference seems unfounded, as the parties may have intended merely an agreement to dismiss pending an attempt to settle the controversy out of court, or they may have agreed only to an extension of time for the defendant. No presumption of a final settlement can rightly be raised by the words "dismissed by agreement", nor from the fact that the defendant also agreed to pay costs. See *Haldeman* v. *United States, supra*; but see *Phillpotts* v. *Blasdel* (1874) 10 Nev. 19. The majority rule seems to be based on an unwarranted inference, and in the instant case, therefore, the plea in bar should have been held bad.

LIMITATION OF ACTIONS—OPERATION OF STATUTE ON ONE CAUSE OF ACTION DURING PENDENCY OF ANOTHER—PROTECTION AFFORDED IN EQUITY.—The plaintiff sought to enjoin suit on a promissory note which he had given to the defendant in settlement of a tort claim. It was found that the note had been given as a result of the undue influence of third parties, but that the defendant had acted in good faith. The injunction was granted, but the defendant's original cause of action in tort was retained to be tried as a law action in order to prevent the bar of the Statute of Limitations. *Macke* v. *Jungels* (Neb. 1918) 166 N. W. 191.

Since statutes of limitations are in derogation of vested rights otherwise enforcible, they will be construed strictly against the party setting up a defense under them, Endlich, Interpretation of Statutes 343, and exceptions thereto will be construed liberally. *Gaines* v. *New York* (1915) 215 N. Y. 533, 109 N. E. 594. Thus the statute does not run against a cause of action while it is being sued upon; Wood, Limitations (4th ed.) § 253a; and there are generally provisions permitting a plaintiff to recommence an action which has been dismissed otherwise than on the merits, N. Y. Code Civ. Proc. § 405; Page & Adams, Ohio Gen. Code § 11233, unless he has acted in bad faith. *Hardin* v. *Coss County* (C. C. A. 1890) 42 Fed. 652. Some statutes contain provisions suspending their operation where the cause of action has been fraudulently concealed by the defendant, Park's Ga. Civ. Code § 4380, and independently of legislative enactment the courts, especially courts of equity, have reached the same results. 5 Columbia Law Rev. 403. Similarly, where the defendant has by fraudulent means induced the plaintiff to permit the statutory period to run, he will not be allowed to set up the Statute of Limitations as a defense. *Barnett* v. *Nichols* (1879) 56 Miss. 622. Although in the principal case, there was no fraudulent conduct on the part of the defendant, the plaintiff on the other hand was justified in relying on the note, and it would seem proper for a court of equity to grant an injunction upon condition that the Statute of Limitations be not pleaded as a bar in a suit on the original cause of

action, or to retain the tort action and effect the same result in the exercise of its plenary jurisdiction as was done in the principal case. Eaton, Eq. Jur. § 10.

MUNICIPAL CORPORATIONS—ORDINANCES—PICKETING IN STREETS.—Under a provision in a city charter empowering the city to protect health, life and property, and to preserve order and security within its limits, an ordinance was passed prohibiting loitering on, or walking back and forth in, the streets, before places of business, for the purpose of persuading persons from entering to transact business. *Held,* such an ordinance was a valid exercise of the police power. *Ex parte Stout* (Tex. Crim. App. 1917) 198 S. W. 967.

Municipal police power to regulate the use of streets is limited by the common right of use possessed by the public. This common right is that of passing along the streets for buiness or pleasure, on foot or by vehicles. Freund, Police Power § 168. Regulation in the public interest, not unreasonably interfering with this fundamental right, is generally upheld. Some jurisdictions hold ordinances prohibiting loitering on the streets invalid, the right of use including that of loitering. *City of St. Louis* v. *Gloner* (1908) 210 Mo. 502, 109 S. W. 30. The Pennsylvania courts uphold such legislation, ruling that the common right is that of transit only, with such stoppages as business necessity, accident, or the exigencies of travel, require. *Commonwealth* v. *Challis* (1898) 8 Pa. Super. Ct. 130. Ordinances forbidding the public selling of theater tickets, *People ex rel Lange* v. *Palmitter* (1911) 128 N. Y. Supp. 426, 71 Misc. 158, or merchandise, *Commonwealth* v. *Ellis* (1893) 158 Mass. 555, 33 N. E. 651, or the "drumming" of patronage for hotels, etc., *Baird* v. *Bray* (1916) 125 Ark. 511, 189 S. W. 657, in the streets, and one prohibiting, with certain exceptions, the display there of advertisements on vehicles, *Fifth Ave. Coach Co.* v. *City of New York* (1909) 194 N. Y. 19, 86 N. E. 824, have been upheld; the practise legislated against in each instance tended to impede passage in the streets, and its exercise was not a common right. Unlicensed street speeches and meetings may similarly be forbidden. *Love* v. *Judge of Recorder's Court* (1901) 128 Mich. 545, 87 N. W. 785. Legislation directed against the carrying of signboards in the streets has been upheld. *Commonwealth* v. *McCafferty* (1889) 145 Mass. 384, 14 N. E. 451. The principal case is supportable on similar grounds. Picketing, even when conducted without threat or coercion, is calculated to provoke disorder. Its prohibition is a proper exercise of the police power, for the common right does not extend to use for purposes of public argument and persuasion.

SALES—FAILURE TO RETURN GOODS AFTER TRIAL—ACCEPTANCE.—The plaintiff delivered to the defendant a piano which the latter agreed to try for 30 days, at the end of which time he was to keep it, if satisfied, and pay for it under the terms of a contract then to be signed. If not satisfied, the defendant was to return the piano. The defendant kept the piano for more than six months before expressing his disapproval. *Held,* that he had accepted the instrument and was liable for the price. *F. O. Evans Piano Co.* v. *Tully* (Miss. 1917) 76 So. 833.

It is well established that where goods are left with a prospective vendee on approval for a fixed trial period, but no mention is made of the time within which approval must be expressed, such expression must be made within a reasonable time after the end of the trial period.